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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

AHMED, SHEEBA

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

07/25/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

DETAILED ACTION

Response to Amendments

1. The amendments submitted on April 1, 2008 has been entered in the above-identified application. Claim 1 has been amended. Claim 4 has been cancelled.

Claims 1-3 and 5-14 are now pending.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 5-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Loon (US 6,503,637).

Van loon discloses a film comprising a blend of: i) a homopolymer of ethylene or a copolymer of ethylene and up to 50% weight % of a C₃ to C₂₀ olefin; ii) a homopolymer of propylene or a copolymer of propylene and up to 50 weight % of a comonomer selected from the group consisting of ethylene and C₄ to C₂₀ alpha-olefins; and iii) a polymer produced in a high pressure process using a free radical initiator. In a preferred embodiment, (i) a homopolymer of ethylene or a copolymer of ethylene and up to 50 weight %, one or more C₃₋₂₀ olefins has a density of 0.86 g/cm³ to 0.96 g/cm³. In a preferred embodiment the High Pressure Polymer is low density polyethylene having a density 0.910 to less than 0.940 g/cm³. In a preferred embodiment the polyethylene (component (i)) is present in the blend at from 1 to 99 weight %, based upon the weight of the polymers in the blend, the polypropylene (component (ii)) is present in the blend at from 1 to 99 weight %, based upon the weight of the polymers in

the blend, and the High Pressure Polymer (component (iii)) is present in the blend at from 1 to 50 weight %, based upon the weight of the polymers in the blend. The polymers can be mixed together prior to being put into an extruder or may be mixed or compounded in an extruder. The blend is typically formed into monolayer or multilayer films. These films may be formed by any of the conventional and in a preferred embodiment a film of the blend is used as a sealing layer. In another embodiment the blend layer is combined with one or more other layers. The other layer(s) may be any layer typically included in multilayer film structures. Further any of the above layers may be oriented before or after being combined with the blend layers. Additives such as antiblock, antioxidants, pigments, fillers, processing aids, UV stabilizers, neutralizers, lubricants, surfactants and/or nucleating agents may also be present in one or more than one layer in the films. Preferred additives include silicon dioxide, titanium dioxide, polydimethylsiloxane, talc, dyes, wax, calcium stearate, carbon black, low molecular weight resins, tackifiers, and glass beads. All limitations of claims 1-3 and 5-14 are disclosed in the above reference.

Response to Arguments

3. Applicant's arguments filed on April 1, 2008 have been fully considered but they are not persuasive. Applicants traverse the rejection of claims 1-3 and 5-14 under 35 U.S.C. 102(b) as being anticipated by Van Loon (US 6,503,637) and submit that Van Loon relates to films made of a blend of certain components, but is not directed towards achieving improved peelability and instead actually seeks to obtain

moisture impermeability and good sealability. However, the Examiner would like to point out that the “discovery of a previously unappreciated property of a prior art composition, or of a scientific explanation for the prior art’s functioning, does not render the old composition patentably new to the discoverer.” *Atlas Powder Co. v. Ireco Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999).

Applicants further argue that the high pressure polymer disclosed by Van Loon is not a linear low density polyethylene having a density of 895 to 925 kg/cm³ prepared by using a catalyst containing a metallocene compound of a transition metal and is clearly not a high density polyethylene having a density of greater than 940 kg/m³ and up to 970 kg/m³ and hence fails to meet the claim limitations as now added by amendment. However, the Examiner disagrees. Column 8, lines 42-50 of Van Loon states that high pressure polymer maybe a low density polyethylene having a density of about 0.922 g/cm³ (commercially available under the trade name ESCORENE LD 150 BW) or ESCORENE LLN 1201 which is an ethylene butene copolymer having a density of 0.925 g/cm³ and produced in a gas phase using a Ziegler Natta catalyst. Hence, the limitation of the now amended claim 1 have been met and the rejection is maintained.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See

MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEEBA AHMED whose telephone number is (571)272-1504. The examiner can normally be reached on Monday-Friday from 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571)272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sheeba Ahmed/
Primary Examiner, Art Unit 1794